

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RONALD STANLEY, :  
Petitioner, :  
v. : No. 06-CV-0323  
SUPERINTENDENT SHANNON, et al., :  
Respondents. :  
:

**MEMORANDUM and ORDER**

Green, S.J.

July 31, 2006

Presently pending is the Report and Recommendation (the "Report") of United States Magistrate Timothy R. Rice and Petitioner's Objection thereto. The Report recommends that the petition be dismissed, without prejudice, pending a final state court determination regarding the timeliness of Petitioner's second PCRA petition. Petitioner objects to the recommendation and asserts that this court should consider staying the matter until the state court issues a decision. Petitioner also urges this court to consider the instant petition as timely filed since he claims to have filed it within a year of discovering new evidence.

The Magistrate Judge's conclusion and Petitioner's Objection have a similar practical effect. Petitioner asserts that this matter should be stayed until the state court issues a decision on the timeliness of his second PCRA petition. Under either scenario, Petitioner must await determination by the state court. Therefore, the court will overrule Petitioner's Objection and dismiss the petition, without prejudice.

**AND NOW**, this 31<sup>st</sup> day of July 2006, **IT IS HEREBY ORDERED** that:

1. Petitioner's Objection is **OVERRULED**.
2. The Report and Recommendation is **APPROVED** and **ADOPTED**.
3. The Petition for Writ of Habeas Corpus is **DISMISSED, without prejudice**.
4. There is no probable cause to issue a certificate of appealability.

5. The Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ Clifford Scott Green  
Clifford Scott Green, S.J.